

BOOKS AND PERIODICALS.

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Responsible Government in the Dominions. By Arthur Berriedale Keith, D.C.L. (Oxon.), D.Litt. (Edin.). Second edition. Two volumes. Toronto: The Oxford University Press, 1927. Price \$22.00, post paid.

Such a book as this, whether well or ill done, is bound to sell by reason of its subject-matter. In this gripping period in the history of the British world, when the old order is in the process of giving place to the new, not only the constitutional lawyer and the parliamentarian but every intelligent citizen is constrained to read, mark and learn—even if he may not digest—any literary attempt to show the means by which potentially fissile communities, not wholly of the same stock but holding the same political ideals, have steadily resisted fission. No more interesting task can be essayed by the historian than that of tracing the steps by which the British Empire of the nineteenth century became the British Commonwealth of the twentieth century.

Mr. Keith has produced a work which, so far as it falls within the category of what has been called 'date-and-fact' history, is of incontestable value to those who would study the development of political institutions in the British colonies; yet in respect of so much of it as is to be regarded as a critical enquiry into the conduct and achievement of those who have played a part in the administration of colonial government we do not hesitate to say that the author does not measure up to the requirements of his undertaking. To speak frankly, he has far too good an opinion of his own importance in the world of affairs to write contemporary political history well. He deludes himself into thinking that during the past twenty years he has done mighty things in securing the status of nationhood for the overseas units of the British Commonwealth. This serves to recall a passage in Hazlitt's essay *On People with One Idea*—"If they enter into politics, it is understood that a hint from them to the potentates of Europe is sufficient." Had his Jovian will been so disposed we must understand that he would have dictated a more splendid measure of autonomy for the Dominions than that which emerged from the Imperial Conference of 1926.

Now, we harbour the notion that so far as Canada's autonomy is concerned it is rather due to the patriotic efforts of our own statesmen from the time of Confederation down to the Imperial Conference of 1926 than to the suasion of anything written by Mr. Keith or any other publicist in Great Britain. Up to the present at least political privileges have not been won by doctrinaire pens alone.

Considered in relation to its proper function, we do not remember having ever before met with so egregious a document as the preface to the work under notice. Its thirty-six pages are tumid with the importance of Mr. Keith's labours in shaping the destiny of the British world. There is hardly

a sentence in which he does not pontify. Read the following excerpts: "In my *Imperial Unity and the Dominions* . . . I sketched the steps which in my opinion should be taken to complete the autonomy of the Dominions." . . . "It is of interest to note how far the recommendations which I made in 1915 have been carried into effect." He then proceeds to enumerate a long series of "my suggestions" for moulding this autonomy of the Dominions. In respect of the first three of them he says: "The Imperial Conference of 1926 has definitely accepted as regards the Governors-General and the Governor of Newfoundland the second doctrine, and with it necessarily the first and third." He does not tell us that the members of the Imperial Conference formally thanked their guide and philosopher for his services, and if they have done so we cheerfully admit our ignorance of the fact. In connection with his suggestion for reform in appeals to the Privy Council Mr. Keith wields the Orbilian rod at the expense of Canada as follows: "The theory which is held by many Canadian—but by few Australian—lawyers that their own resources in judicial talent are insufficient to secure the due decision of cases is a confession of inferiority which is inconsistent with the legislative freedom which all claim for the Dominion, and with due self-respect." If weightier reasons for retaining Canadian appeals to the Privy Council were out of the way we can assure our critic that he would hear little of the objection he mentions to litigation finding its court of last resort in Canada.

Mr. Keith does not only mar the attractiveness of his important work by the egotism that drenches the preface. Ever and anon throughout the book one encounters examples of what it might be a mere euphemism to call bad taste. Space and inclination will only permit us to refer to a few of them:—"Only history ultimately will assign to the [Roman Catholic] Church its share in the outstanding defects of the people of Quebec, their unwarlike disposition, their genius for political corruption, their subservience to unworthy leaders, their sadly defective speech, and their failure to produce a single great name in literature, art or science." That Quebec has produced men of good manners quite naturally does not weigh with Mr. Keith. In discussing the Dominion legislation of 1924 establishing the United Church of Canada he speaks of the "Presbyterians who realized the folly of merging their Church with two alien denominations, without the same traditions and mainly motivated by considerations of their advantage"; and we hear of the Continuing Presbyterians "leaving the new Church to consist in the main of Methodists and Congregationalists, and the less sincere and more mercenarily inclined Presbyterians, who were willing to sacrifice principles for ampler means." For Mr. Keith there is no saving grace in Canadian religions outside that of the Continuing Presbyterians. Earlier in the work he takes on politics and Mr. Meighen's short-lived administration of 1926:—"This farcical Ministry faced the Commons on the 30th June, hoping by large promises to dupe a section of the Progressives—the most unintelligent party yet produced by Canada—into supporting them." Then we have the following pleasant evaluation of the qualities of members of the Canadian Senate: "A number of ancient and feeble nonentities whose presence in the upper chamber was proof of their unfitness for any useful purpose." At another place the juxtaposition of the names of Lord Haldane and Lord Watson results in the remark that the latter was "a much abler Judge"—and yet Lord Haldane is still very much alive and Mr. Keith is a member of the Scots Bar!

Mr. Keith's journalistic censure of Lord Byng in connection with the political confusion which occurred in Canada in 1926 has been carried into this formal work with no appreciable modification in tone. We hold no brief for Lord Byng, nor do we care to say whether he was right or wrong in our opinion; but we confess to disgust in encountering the rancour of the partizan in what ought to be the dignified and unimpassioned pages of history. There are many references in the work to this constitutional episode, and in none of them can it be said that Mr. Keith is disposed *faire une politesse* to the distinguished subject of his strictures. One is impelled to contrast Professor Kennedy's considerate and unbiassed portrayal of the constitutional misadventures of Sir Charles Metcalfe in his "Constitution of Canada" with Mr. Keith's amazing fleers at Lord Byng.

All that we have set out above points to the necessity of drastic expurgation if Mr. Keith ever contemplates a further edition of a book which, as we have said, possesses undoubted value in its practical sphere.

Then, there are some legal positions assumed by the author of the work in hand which we would be prepared to controvert did space permit. But we cannot close our observations without referring to a statement of fact that we are particularly interested in. At p. 571 Mr. Keith defines the jurisdiction of the Exchequer Court of Canada as follows: "It has admiralty jurisdiction and hears petitions of right, and if the provinces legislate to that effect, it can deal with disputes between the Dominion and a province or between two provinces. Otherwise federal jurisdiction is exercised in the Provincial Courts." This ignores the jurisdiction in patents, trademarks and copyright, and a number of other subjects of importance, constituting the Exchequer Court of Canada one of the busiest tribunals in this country. Mr. Keith also omits to mention at the place cited the Board of Railway Commissioners as one of the Dominion Courts. Our readers will find in Dr. McLean's interesting article in the present number of the CANADIAN BAR REVIEW information that the Board is properly to be accounted a court of record:

CHARLES MORSE.

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Paul Vinogradoff: A Memoir. By the Right Honourable H. L. Fisher. Oxford: The Clarendon Press. Toronto: The Oxford University Press. 1927. Price, \$1.50.

This is an appreciation by the Warden of New College of the qualities both of head and heart of his friend the late Sir Paul Vinogradoff, who for a period of more than twenty years held the Corpus Chair of Jurisprudence at Oxford. Born in the town of Krostroma on the 18th November, 1854, Vinogradoff at the early age of sixteen found, as a result of the excellent use of his time at school, that he was entitled to admission as a student at the University of Moscow. His career as a scholar of first-rate importance in the domain of political and legal history began at Moscow, and was continued at Berlin and Bonn. After finishing his university training in Germany Vinogradoff returned to Russia and took up the work of lecturer on Universal History at the Women's University in Moscow. In 1883 his researches in medieval history led him to visit England, where he met F. W. Maitland, the distinguished historian of our law. Maitland declared that in six weeks the

Russian scholar had learned more about Bracton's text than any Englishman, since Selden died. Returning to Moscow Vinogradoff was made Professor of History at the University, where he continued until 1901 when he resigned his professorship by reason of disagreement with the University authorities. In 1902 he settled with his family in England and in 1903 he became Corpus Professor of Jurisprudence at Oxford. Both his predecessor, Sir Frederick Pollock, and Professor Maitland were delighted with the appointment—the former saying that Oxford “had not done better since she adopted Alberico Gentili.”

Sir Paul Vinogradoff's labours at Oxford have added much to the knowledge of English legal institutions, and his books naturally create a desire on the part of their readers to know something about the personal qualities of the author. This knowledge is very pleasantly afforded by the Right Honourable Mr. Fisher.

C. M.

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Grotius Society Transactions: Vol 13, Problems of Peace and War. London: Sweet & Maxwell Limited, 1928.

This volume of the Transactions of the Grotius Society comprises, *inter alia*, the papers read before the Society during the year 1927. A glance at the titles of these papers is sufficient to show that the Society has suffered no abatement of its power to interest scholars in the objects of the organization. Two of the subjects dealt with are of considerable importance to Canadians, namely, “The Monroe Doctrine and Entangling Alliances,” by Wyndham A. Bewes, and “National Jurisdiction in the Marginal Seas over Foreign Smuggling Vessels,” by William E. Masterson. Mr. Bewes thinks that the ‘Monroe Doctrine’ has “had its day, after serving some useful purposes.” Mr. Masterson, speaking of the laws of certain European countries, as well as of Great Britain and the United States, which extend territorial jurisdiction beyond the three-mile limit, says that the argument that such laws are in violation of International Law “is an interesting example of begging the question.” He thinks, as we read him, that the necessity of preventing the entry of prohibited goods from one community of people into one adjoining it must be regarded as of sufficient moral and economic importance to-day to make it possible to disregard the rigid rules of the past. In his paper on “The Present Position of the Codification of International Law,” Mr. Arnold D. McNair reviews the progress that had been made by the codification movement down to the year 1927.

C. M.